

TRIBAL GOVERNMENTS

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Tribe

Tribe is an ethnic group – a cultural entity

Tribal Government (federally recognized tribe) is:

- an ethnic group
- cultural entity
- a **political entity** with the right to self-government. (*U. S. Constitution, Morton v. Mancari, treaties, statutes, executive orders, etc.*)

Functions of a Tribal Government

- **Governments have three duties to perform, legislative, executive, and judicial functions.** (pg 23-24)
 - *Legislative* function is the primary purpose of government: making laws. Tribal Council
 - *Executive* aspects is the carrying out of laws. Tribal Council (primarily Tribal Chairperson), Committees, Tribal administration.
 - *Judiciary* functions has the task of deciding whether actions are proper according to the law. Tribal Council, Tribal judges and Tribal courts.

Tribal Governments also have the ability to develop, manage and operate economic enterprises.

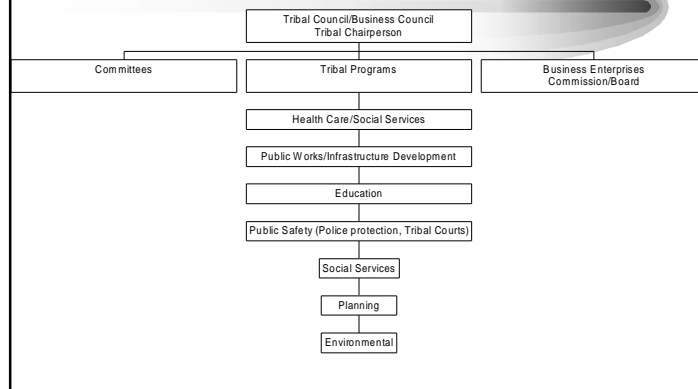
Tribal Government Organization

- Tribal Constitution
- Tribes Vary by:
 - Size of land/population
 - Financial Resources
 - Staff
 - Training/Experience
 - Culture
 - Organization Structure

Attachment A

Tribal Organizational Chart

(Sample)



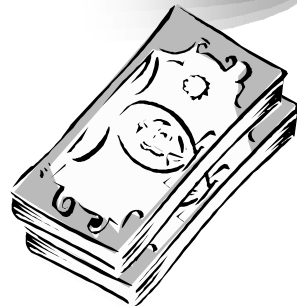
Transportation Funds for Tribal Governments



- 109 Tribes
- BIA-IRR Funds
- \$5 million-Construction
- \$670,000-Maintenance
- \$150,000-Planning

Tribal Economic Development

- What does a Tribe do with its economic development revenues?



State's Federal-Aid Funds

The State has an obligation to include Tribes in the planning and programming process for transportation projects (Title 23, CFR, Part 450).

Section 204(c) and the legislative history of the 1982 Act permits and obligates States' federal-aid funds to be spent on Indian reservations.

Section 204(c) states, "the obligation of funds for such project is supplementary to and not in lieu of the obligation ..."

The Senate Amendment for the 1982 added,

"The Secretary must continue to determine that the Indian roads funds are spent in addition to, and not in lieu of, the States' regular federal-aid funds."§

MPO Responsibilities

- Where a metropolitan planning area includes Federal public lands and/or Indian tribal lands, the affected Federal agencies and Indian tribal governments *shall* be involved appropriately in the development of transportation plans and programs. Title 23, U.S.C. 450.312

Cooperation and Coordination

- ..each State, in *cooperation* with participating organizations (such as MPOs, Indian tribal governments, etc) *shall*, to the extent appropriate, provide for a fully *coordinated* process including *coordination* of the following...
 - Plans,... such as the STIP

Coordination

- Coordination means the comparison of the transportation plans, programs, and schedules of one agency with related plans, programs and schedules of other agencies or entities with legal standing, and adjustment of plans, programs and schedules to achieve general consistency. 23 CFR, Sec. 450.104

Cooperation

- Cooperation means that the parties involved in carrying out the planning, programming and management systems processes work together to achieve a common goal or objective. 23 CFR, Section 450.014 Definitions

Attachment A

•23 U.S.C. 109 (h)

–Must fully *consider* possible adverse social, economic and environmental (SEE) effects of proposed FHWA projects on any Federal-aid system... (*consultation*)

Consultation

Consultation means that one party confers with another identified party, and prior to taking action(s), *considers* that party's views.

- **Transportation**
- **Land Use**
- **Employment**
- **Economic Development**
- **Housing**
- **Community Development**
- **Environmental (Section 106 Consultation Process)**

Public Participation

- **Public participation provides for involvement of all citizens.**
- All Native Americans as individual citizens – regardless of whether they are members of a Federally-recognized Tribe-can contribute to the public participation process.

Title VI

No person in the U.S. shall be

- Excluded from participation
- Denied benefits
- Subjected to discrimination

in any federally-funded program, policy, or activity on the basis of:

- Race
- Color
- National Origin

Attachment A

Environmental Justice

- Executive Order 12898 – 2/11/1994
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income populations
 - SHALL analyze the effects to minority and low-income communities.
 - SHALL provide opportunities for community input.
 - SHALL have EPA review under Section 309 of the Clean Air Act.
 - SHALL ensure adequate access to public information.
- “This order is also intended to promote nondiscrimination in Federal programs substantially affecting human health and the environment, and to provide minority communities and low-income communities access to public information on, and an opportunity for **public participation** in, matters relating to human health or the environment.”

Certification

• 23 CFR, Section 450.220 Approvals

“At least every two years, each State shall submit the entire proposed STIP, and amendments...The State shall certify that the transportation planning process is being carried out in accordance with all applicable requirements:

- Consultation with the Tribal Governments, *and*
- Cooperation with Tribal Governments, *and*
- Coordination with Tribal Governments, *and*
- Public participation with the Tribal community.

Questions?